THE

T R Y A L

BETWEEN

J. G. Biker, *Plaintiff*;

AND

I. MORLEY, *Doctor of Phyſic*, *Defendant*;

FOR

CRIMINAL CONVERSATION

WITH THE

LAINTIFF'S WIFE;

n *Tueſday* the 30*th* of *June*, at GUILDHALL, *LONDON*.

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LONDON:

nted for J. HUGGONSON in *Sword* and *Buckler-Court*, *Ludgate-Hill*. M:DCC.XLI.

(Price Six-Pence.)

On Tueſday *the* 30*th Day of* June 1741, *at* Guildhall, London, *came on before the Right Honourable the Lord Chief-Juſtice* Lee, *at his Sittings there; the Trial by a Special Jury, of an Action between* J. G. Biker, *Plaintiff; and* M. Morley, *Doctor of Phyſick, Defendant; for an Aſſault upon, and criminal Converſation with, the Plaintiff's Wife.*

The Council for the Plaintiff, were Mr. *Sollicitor-General*, Mr. Serjeant *Burnet*, Mr. *Lloyd*, Mr. *Denniſon*, and Mr. *Cummin*; and for the Defendant, Mr. Serjeant *Prime*, Mr. *Hollings*, Mr. Serjeant *Urling*, Mr. *Bootle*, and Mr. *Murray*.

MR. *Cummin* opened the Declaration; which was, that the Defendant at ſeveral particular Days, and Times therein mentioned; in the Months of *February*, *March* and *April* laſt, made an Aſſault upon *Katherine*, the Plaintiff's Wife, and her raviſhed, debauched, lay with, and carnally knew, by which the Plaintiff loſt the Aid and Comfort of her Society, to his Damage of 10,000 *l.*

Mr. *Solicitor-General* ſtated the Caſe, (as inſtructed;) we ſhall not attempt that dangerous Taſk, of

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repeating after him, according to the Complement, juſtly made him by Mr. Serjeant *Burnet*, who ſeconded him; and therefore ſhall only briefly ſay, that on the Part of the Plaintiff, it was repreſented to be to the Effect following, *viz.* that Mr. *Biker* the Plaintiff, ſo very lately as the 22*d* Day of *April* laſt, thought himſelf happy, in the Poſſeſſion of a Wife, young, beautiful, virtuous and affectionate; when all at once this Happineſs was daſhed, by the Diſcovery of a Piece of Management of the Defendant, in ſeducing her from thoſe Paths of Virtue, in which ſhe had been brought up from her Infancy, and continued to walk, till her unfortunate Acquaintance with the Defendant, upon the Occaſion hereafter to be mentioned; but ſo prevalent is the Force of a virtuous Education, that tho' ſhe was ſurpriſed into a Breach of her Duty; yet when ſhe had Leiſure to reflect, ſhe looked back upon her falſe Step with Contrition and Horror; inſomuch, that tho' the laſt Inſtance of that criminal Commerce, for which this Action is brought, was on the 18*th* Day of *April* laſt, ſhe expired in a Mad-houſe on the 8*th* of *May*. That in the Year 1732, the Plaintiff married this Lady, ſhe being then but 17 Years of Age; ſhe was the Daughter of an eminent Citizen, and by Nature and Education, accompliſhed as has been mentioned; and her Behaviour was what might be expected from ſuch Education; ſo that Mr. *Biker* and ſhe lived in great Harmony and Happineſs, 'till the Time beforementioned. That the Lady had a Misfortune to which ſome Women are liable, of being very apt to miſcarry; that ſhe had done this frequently, and been formerly attended on ſuch Occaſions by Dr. *Douglas*; but that her laſt Miſcarriage, happening in *July*, or *Auguſt* laſt, and Dr. *Douglas*, not being then in the Way; the Defendant Dr. *Morley*, who practiſes in that Way of Man-Midwifery,

wifery, was called in; and when the Lady was in a good Degree recovered from that Indiſpoſition, the Defendant forgetting his Duty and Character, and the Honour of that learned and uſeful Profeſſion, in which he was growing very conſiderable, entertained an unwarrantable Paſſion for his fair Patient, and inſtead of ſuppreſſing and ſubduing it, (as upon all Conſiderations he ought to have done) he, tho' a married Man, and Twelve or Fourteen Years older than Mr. *Biker*, was reſolved to indulge and gratify it any Rate: And for this Purpoſe propoſed and cultivated an Acquaintance and Intimacy between the two Families; made many Viſits to Mrs. *Biker*, when ſhe was alone, under the Pretence of aſſiſting her in the way of his Profeſſion, altho' ſhe was well recovered; that thoſe Viſits were long, at improper Seaſons, and when he knew he ſhould not find the Plaintiff at Home. That what paſs'd at thoſe Viſits would be left to the Conſideration of the Jury, when they ſhould hear moreover a particular Account of three ſeveral Days, where the Defendant and Mrs. *Biker*, met at the *Royal Bagnio* in St. *James*'s-*Street*, and there went to Bed together; the laſt of which Days, was *Saturday* the 18th of *April*; this the Plaintiff was enabled to find out by a particular Accident, which ſome of the Witneſſes will give an Account of; the former of thoſe Days were within five or ſix Weeks before; —— that when the Lady grew very ill, the Defendant oppoſed ſending for Sir *Edward Hulſe*—and after mentioning ſeveral other Circumſtances in the Opening, which we here omit, and which will occur in the follow Minutes of the Examination of the Witneſſes; they proceeded in their Evidence for the Plaintiff.

ANNE PEELING, *ſworn*,

Said, ſhe was Chambermaid at the Plaintiff's in *Foſter-lane*, *Cheapſide*, and lived there about two Years paſt; that her Miſtreſs was ſubject to Miſcarriages, and had in that time miſcarried twice or thrice, the laſt of which was in *July* or *Auguſt* laſt.——That on thoſe Occaſions ſhe had been formerly attended by Dr. *Douglas*, who was out of the Way the laſt time, as the Witneſs believes, and then another Gentleman, and afterwards Dr. *Morley*, was called in; that he uſed from that time to frequent Mr. *Biker*'s Houſe, and the Families became acquainted and intimate; and uſed to dine, but oftner to ſup together —— that the Doctor and Mrs. *Biker* uſed to be together, without other Company———often in a Bed-Chamber—— for ſeveral Hours together:—— That about the latter end of *March* laſt, or beginning of *April*, he came alone about Eight o'Clock in the Evening, and asked for the Plaintiff, who was not at home; he then asked for Mrs. *Biker*, who was at home; he asked if ſhe had any Company with her; was told, no; then he went in——— they were in the Dining-Room together—— that between that time and Nine o'Clock, one or other of them opened and ſhut the Dining-Room Door ſeveral times, as if they had a mind to liſten, or know if the Servants were liſtening;——that at Nine, Mrs. *Biker* uſed to take Milk-Porridge for Supper; and at that Hour, that Evening, call'd to the Cook not to ſend it in, till ſhe called for it;——which ſhe did upon the Doctor's going away, about half an Hour after———— being ask'd as to the 18th of *April*, this Witneſs went on to ſay, that on that Day, being *Saturday*, her Miſtreſs did not dine at home; her Maſter went to the Country in the Morning, and Mrs. *Biker* was to go out in her Chariot; that

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ſhe did go out to the Shops in her Chariot, between ten and eleven, and return'd home about twelve, or a little after, — and went out again, alone and on foot, about a Quarter before two. This Witneſs could not ſay what Cloaths her Miſtreſs went out in before Noon, but did obſerve, that ſhe went out on foot in an Undreſs, a yellow Night-gown, and black Velvet Mantelet; that ſhe return'd about eight in the Evening; that they (*the Servants*) had believed ſhe dined at Dr. *Morley*'s —— that upon her coming in at Eight, the Witneſs obſerved nothing about her Dreſs; that ſhe came into the Kitchen, and looked in a Looking-glaſs there, adjuſted her Head-Cloaths by it, and ſaid, ſhe thought the Wind had almoſt blown her Cap off; —— that about three or four Minutes before Mrs. *Biker* return'd home in the Evening, Dr. *Morley*'s Boy had called to give Mrs. *Morley*'s Service, and to deſire Mrs. *Biker* to ſup with her; —— that Dr. *Morley* came to Mr. *Biker*'s twice on *Monday*; that Mr. *Biker* did not return from the Country till *Tueſday* —— and before he came, on *Tueſday*, Dr. *Morley* had been there; —— being ask'd, whether this Witneſs uſed to be ſent out when the Doctor and her Miſtreſs were together, ſhe ſaid, ſhe had been ſeveral times.

She proceeded (being examined) to give an Account, that in that Week after Mr. *Biker*'s return, Mrs. *Biker* grew very ill, and Sir *Edward Hulſe* was ſent for on the *Thurſday* or *Friday*—— as ſhe believes, Dr. *Morley* propoſed it —— that on *Friday* Mrs. *Biker* was in Bed in her Bed-Chamber, Dr. *Morley* was with her, ſtanding by the Bedſide; and as he felt her Pulſe, ſhe ſaid, *Oh! Doctor, my Conſcience*; he put away her Hand, and ſaid, *Pray, Madam, do not ſpeak of it*; to which ſhe replied, *I muſt*.

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This Witneſs, being croſs-examin'd, did ſay, that ſhe ſtood by the Bed during this laſt Converſation; that ſhe was not order'd to go out of the Room; that her Miſtreſs had been very ill then; and had been bliſter'd; —— that ſhe (*this Witneſs*) had not obſerved Mrs. *Biker*'s Head to be diſordered; that ſhe had ſate up with her on *Wedneſday* Night —— but believes not on *Thurſday* Night —— that ſhe did not obſerve any Alteration or Confuſion in the Doctor, on Mrs. *Biker* ſaying, *Oh! my Conſcience*, &c.—that ſhe believes the Milk-Porridge was preſcribed to her Miſtreſs for her Suppers, by Dr. *Morley*; that her Stomach was weak, and not able to bear Suppers of Fleſh-meats —— did not know that Mrs. *Biker* had any preternatural Diſorders;—can't ſay that ſhe had Diſorders which required the Aid of a Phyſician; —— being examined as to ſuſpecting her Miſtreſs, *&c.* ſhe ſaid, ſhe and her Fellow-Servants took Notice of the opening and ſhutting of the Dining-Room Door, becauſe it was unuſual; —— ſhe does not know whether they had Reaſon to ſuſpect that the Doctor had any Intention to corrupt her; but he uſed to come often, and ask for Mr. *Biker*, and if he was at home, the Defendant came in —— ſhe cannot ſay that ſhe heard the Plaintiff deſire the Defendant to cultivate an Acquaintance between the Families —— ſays, that the Plaintiff was uſually invited to the Doctor's along with his Wife.—— This Witneſs looked out of the Window after her Miſtreſs on the 18th of *April*, becauſe ſhe went out without a Servant, which was unuſual —— ſhe went towards *Cheapſide* —— which is towards Dr. *Morley*'s, who lives in *Bow-lane*, *Cheapſide*; —— does not remember ſhe ſaw Dr. *Morley* at the Plaintiff's, on the 18th of *April*.—— The Doctor has uſed to ſtay with the Plaintiff and his Wife till late Hours ſometimes till One in the Morning; —— he uſed

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to ſtay longeſt with the Wife when he found her alone.

SARAH JAMES, *ſworn.*

This Witneſs is Mr. *Biker*'s Cook in Town, can ſay nothing to her Miſtreſs's Miſcarriage in *Auguſt* laſt, which happen'd in the Country ——— On the *Friday* before the Rehearſal at St. *Paul*'s, for the Sons of the Clergy (*which Rehearſal was agreed to have been on the* 14*th of* April, *and conſequently this Friday to have been the Tenth*) Dr. *Morley* came to Mr. *Biker*'s Houſe, about Eight o'Clock in the Evening, and asked for Mr. *Biker*, who was not at home; and then for Mrs. *Biker*, and whether ſhe was alone; ——— ſhe was at home and alone; ——— ſhe at that time appear'd to be in Health; ——— he went up to her to the Dining-Room, and ſtaid till about half an Hour after Nine; ——— between Eight and Nine this Witneſs, and other Servants in the Kitchen, heard the Dining-Room Door open and ſhut gently, ſeveral times; at Nine, Mrs. *Biker* called to this Witneſs, not to ſend her Milk-Porridge, till ſhe called for it ——— this Witneſs did not ſuſpect her Miſtreſs till then. ——— When Mr. *Biker* went to *Cobham* (*viz.* 18*th of* April) Mrs. *Biker* went out in her Chariot in the Morning, and return'd about Noon, ——— ſhe went out again on foot, and alone, about a Quarter before Two, not having dined; and ordered the Servants to go to Dinner; —ſhe was dreſſed in a yellow Silk Night-gown, and black Velvet Mantelet; —ſhe returned about Eight that Evening; —Dr. *Morley*'s Boy had been there a few Minutes before, to invite her to Supper; they told her of him; ſhe ſaid, ſhe had met him ——— ſhe adjuſted her Head by the Looking-Glaſs in the Kitchen; and ſaid, ſhe thought the Wind would have

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blown her Cap off.——The Servants imagined ſhe had gone to dine at Doctor *Morley*'s that Day——latterly ſhe had gone Abroad without her Chariot——being croſs-examined ——ſhe ſaid, Mrs. *Biker* had not uſually a good State of Health; and that ſhe had miſcarried two or three Times.

EDWARD MEAD, *ſworn.*

Says, he is Footman to Mr. *Biker*, and has lived there about four Years—that Mrs. *Biker* uſed to miſcarry; and was formerly attended by Dr. *Douglas*; and near a Year paſt by Dr. *Morley*; that Doctor *Morley* uſed to make long Viſits at Mr. *Biker*'s.——That this Witneſs had ſome Suſpicion of him and Mrs. *Biker*, on account of the manner of his paying his Viſits; being about Eight o'Clock in the Evening, the uſual Time of the Plaintiff's going to the Tavern.——That Mrs. *Biker* went to the Rehearſal at St. *Paul*'s; and had Miſs *Watts* in her Chariot with her.——That they were ſet down at St. *Paul*'s Coffee-houſe, and to dine at the Doctor's.—— Mr. *Biker* did not dine at Home that Day.--As to Mrs. *Biker*'s going out and returning Home on the 18*th* of *April*; this Witneſs gave the like Account with the former Witneſſes——and farther ſaid, that that Morning Mrs. *Biker* had Mrs. *Morley* in the Chariot with her—— that before the Defendant became acquainted with her, ſhe never uſed to go out of the Lane without a Servant.——That this Witneſs made a *Memorandum* of the 18*th* of *April*; on Account of a Converſation he had that Day with another of the Witneſſes (*Thomas Leach*) Mr. *Garnier*'s Coachman, who meeting with him on another Occaſion, told him, he had ſeen Mrs. *Biker* go into the *Royal Bagnio*, in St. *James*'s-*Street*, that Afternoon.— that when Mrs. *Biker* went to Supper at Dr. *Morley*'s that Evening, ſhe ordered this Witneſs to come to her

her there, at half an Hour after Ten; that he came accordingly, and attended her home.

ANNE OLIVER, *ſworn.*

This Witneſs lives at the Royal Bagnio in St. St. *James*'s-*ſtreet*,; 'tis kept by her Siſter, Mrs. *Bucknall*——this Witneſs lived there about ten Weeks before the 18th of *April*.——She ſaw the Defendant there three ſeveral times, at about three or four Weeks diſtance between them——the firſt time was about a Month after the Witneſs came to live there—he uſed to come about two or three in the Afternoon, and a Lady came with him the firſt and ſecond time—the firſt time they were in the red Room up one pair of Stairs;——there is a Bed in the Room——'twas ready Sheeted—the Witneſs did not know at firſt who the Lady was; but knew her afterwards——went to ſee her afterwards at Mr. *Biker*'s Houſe—ſhe was Mr. *Biker*'s Wife—the Defendant and the Lady ſtaid the firſt time four or five Hours——he ordered the Bed to be warmed; and asked whether the Sheets were clean;——and order'd a Fire;——after they were gone, the Bed wanted to be made again——they went away when it was duskiſh——they both went away together the firſt time, out at the ſame Door, the Fore-Door——the Sheets were much tumbled—the Defendant paid half a Guinea for the Houſe, beſides the Fire——the Price is for a ſingle Gentleman, a Crown——but if there be a Gentleman and a Lady, 'tis half a Guinea——they came a ſecond time in about three Weeks, they were then in a Room two pair of Stairs backward——the Witneſs was not within when they went away—ſhe had ſerved them with Water and Rack, and the Doctor made Punch of it himſelf——the Bed was not Sheeted——they did not go into Bed that Time——they only lay upon the Bed——it was

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tumbled—they came a third time, about three Weeks afterwards, being the 18th of *April*; the Defendant came firſt, and aſked for the Room up one Pair, and ſaid a Lady would be there preſently ——— the Lady came in about half an Hour, and went into the Parlour, and then up Stairs; ——the Defendant enquired whether the Sheets were clean—the Witneſs went out of the Room, the Lady undreſs'd, and went to Bed—her Cloaths were by the Bedſide when the Witneſs came in again, being rung for ——————it was to put on another Quilt, the Lady having complained, that there were not Cloaths enough on the Bed——the Witneſs laid on another Quilt—the Doctor was dreſs'd when the Witneſs was thus called in——after ſhe withdrew, the Door was faſtened after her, for ſhe heard the Bolt fall down.——At this Meeting they had hot Punch——when they rung for her again, they were both dreſs'd; and as ſhe remembers, the Defendant paid 16*s.* 6*d.* being for Sangree, the Fire, and the Houſe;——this Witneſs is married—ſhe ſaw ſomething on the Sheets, that made her believe there had been a Commerce between them, as between Man and Woman—the Defendant beſpoke the ſame Room for the *Monday* following——they ſtaid till near Night; he went out at the Fore-Door, and deſir'd them to let the Lady out at the Back-Door.——————When this Witneſs ſaw Mrs. *Biker* afterwards at Mr. *Biker*'s Houſe, Mrs. *Biker* knew her, and ſaid, *that is the Woman that laid the Quilt upon the Bed*—Mrs. *Biker* had on a black Velvet Mantelet and yellow Gown, every time ſhe came to the Bagnio ——— in about a Fortnight after ſhe had been laſt there, the Witneſs ſaw her at her Husband's (the Plaintiffs Houſe) and ſhe died ſoon after;—this Witneſs alſo went to *Bow-lane*, to ſee the Defendant;—ſhe did ſee him there coming along the Lane to go into his Chariot———ſhe kept the

Room

Room up one Pair till the laſt on *Monday*——— the Defendant found fault with the Arrack, and ſaid it was not as good as ſhe had given him before—— ſhe ſpoke in Favour of it, and ſaid, ſhe was ſure her Maſter paid a good Price for it—ſhe looked in his Face when ſhe ſpoke to him, and afterwards knew it again.

The ſame Witneſs (*Anne Oliver*) being croſs-examin'd, ſaid, that ſhe left the Bagnio on the firſt of *May*; that ſhe has been in the Country ſince;— that the Plaintiff got her to the Country, for fear the Defendant ſhould get her from the Bagnio—— that ſhe has been at *Tottenham-Hale*———that the Plaintiff's Country-Houſe is at *Tottenham-Croſs*; —— that theſe Places are about half a Mile aſunder———that ſhe has lived at a Farmer's; the Plaintiff placed her there —that the Profits of her Place in the Bagnio may be about an hundred Pounds a Year — that the Plaintiff promiſed to make up her loſs of Time — that ſhe has had neither Money nor Bond from him, except two Guineas and an half ——that ſhe might ſay to Mrs. *Pye* that ſhe would not leave her Place at the Bagnio, without a proper Satisfaction for her loſs of Time;——— that the Plaintiff was with her there on the *Saturday* next after his Wife and the Doctor had been laſt together; that his Attorney, Mr. *Stanyford*, was with him; — that their Pretence was, to prevail on this Witneſs to get the ſame Lady for the Plaintiff, which his Friend the Doctor had there—that ſhe owned to them that the Doctor had been there—— that ſince the firſt of *May*, the Plaintiff has maintain'd her, and her Husband (who lives at a Bagnio) when he pleaſed to come to her in the Country; —— that the firſt time, the Defendant came on Foot to the Bagnio, and the Lady with him—that they do keep a Book of their Reckonings at the Bagnio; and make, or ought to make

Entries of them; but that ſhe did not go to the Book, nor make any Entry in it——that ſhe did not know the Defendant nor Mrs. *Biker*, the firſt time they came——That they came together the ſecond time, about three o'Clock; and ſhe did not then know who they were.——That ſhe remembers the 18th of *April*; becauſe the Plaintiff, Mr. *Biker*, came to her (this Witneſs) that Day ſe'nnight, and becauſe the Defendant had beſpoke the Room for *Monday*;——that ſhe did not at that Time know their Names.—That ſhe did not declare to any body, ſhe was ſorry the Plaintiff had engaged her ——that *Bucknall (the Keeper of the Bagnio)* came to her at *Tottenham*, and told her he came from the Defendant, and that if ſhe would come away, he could get five hundred Pounds for her—— that ſhe did not declare ſhe was ſorry ſhe was engaged; nor, that ſhe was to have fifty Pounds in Money, and a Bond for a hundred Pound; nor that her Husband was to have ſuch Reward; nor that it was a pretty thing to live on; or to pay Debts;——but ſhe ſaid ſhe was to truſt to the Plaintiff's Generoſity; and if he was generous, he might put her and her Husband into a Way in the World; and this ſhe believes ſhe ſaid only once to her Siſter *Deane* at the Bagnio——ſays, ſhe ſaw the Defendant firſt (after his laſt Meeting at the Bagnio) in *Bow-Lane*; believes it was on the 1ſt of *May*, about a Week or two after the Plaintiff firſt came to her——that ſhe went to *Bow-Lane* for that purpoſe, with one of the Plaintiff's Servants, and at his Deſire; that ſhe ſaw the Defendant coming up the Lane to his Chariot; and ſaid, he was the ſame Perſon; and the Maid ſaid, he was Dr. *Morley*;——that ſhe ſaid nothing to him; that he wore light Clothes, and a three-tail'd Wig, neither very light nor very dark; that ſhe never ſaw him ſince.—That when ſhe ſaw Mrs. *Biker* at her Husband's Houſe in *Foſter-Lane*,

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ſhe was not in Bed, ſhe was ſitting by the Fire-ſide. —— That this Witneſs made no Affidavit of what ſhe had to ſay; but that ſhe had declared to her Siſter, that ſhe had done ſo, to avoid her Importunity on the Defendant's behalf.—That Mrs. *Biker* was not maſqued, when ſhe came to the Bagnio; thinks ſhe had on a black Hood and Straw-Hat. ——She believes ſhe might have ſaid ſhe never ſaw any part of Mrs. *Biker*'s Face, only the upper part, except once, and that was in the Paſſage; but that ſhe never did ſay, ſhe did not know, whether ſhe was handſome or ugly——that the firſt time the Plaintiff came to her *(this Witneſs)* he gave her half a Guinea for her Coach, and afterwards he gave her two Guineas at the *Thatch'd-Houſe Tavern* —— that ſhe was never with him in the City after, till ſhe was coming away——that ſhe never declared he gave her a Guinea, for her Trouble of coming into the City; nor half a Guinea for Chair-Hire. —— She believes her Husband had five and twenty Guineas from the Plaintiff at different Times; but that there were no Debts paid, or to be paid for him, nor Cloaths bought;——that ſhe never went an airing in the Plaintiff's Chariot——that ſhe has had a Guinea or two from her Huſband, and no more, ſince the firſt of *May* laſt—— that he was to have 50 *l.* in all for the Loſs of her time——but does not know when it is to be paid;——but, to be ſure, it is to be paid on the Event of this Cauſe——that all things were provided for her in the Country —— Wine as well as other Neceſſaries;—— that her Husband partook of them, by coming when he pleas'd—— that ſhe had no Cloaths given her; that ſhe bought ſome, which ſhe beſpoke before ſhe left Town, and ſhould have bought if ſhe had not gone there.—— That the Plaintiff did aſk her, what her Place at the Bagnio was worth;——that

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he did not promiſe any thing — but that he would make up her Loſs of time.

Sarah James (a former Witneſs) being examin'd again, ſaid, that on the 1ſt of *May*, ſhe went with the laſt Witneſs to *Bow-Lane*, where they ſaw Dr. *Morley* in the Street; and that immediately the Witneſs, *Anne Oliver*, ſaid, *That is the Man*; this Witneſs ſays, it was the Doctor, and this Witneſs then told the other ſo; and the other (*Anne Oliver*) would have ſpoke to him; but, that this Witneſs did not think it proper——that ſhe had not before told the other Witneſs, which was the Defendant's Houſe.

Anne Peeling (a former Witneſs) That Mr. *Biker* knew the Witneſs *Oliver*, as ſoon as ſhe ſaw her; and ſaid, it was the Woman at the Bagnio.

THOMAS LEECH, *ſworn*.

This Witneſs is Coachman to Mr. *Garnier*, Apothecary in *St. James's-Street*, within two Doors of the *Royal Bagnio*—he lived before, *viz.* about eight or nine Months ago, with Mr. *Biker*——he ſat upon his Coach-Box at his Maſter's Door on the 18th of *April* laſt, and ſaw Mrs. *Biker* croſs the way, juſt at the Head of his Horſes; he ſaluted her by pulling off his Hat, and aſking how her honourable Family did? But ſhe anſwered not a Word; but made a ſort of Return, by bending her Body— when ſhe was paſs'd behind him, he turned about his Face, looking over his Shoulder, and ſaw her go into the *Bagnio*, from which he was hardly ten Yards diſtant——he ſaw no Man go in there, nor with her ——the time was, as near as he can judge, twenty Minutes after two——afterwards the ſame Day the Witneſs had a Converſation with the Plaintiff's Coach-man, about another Occaſion; that ſome mention being made of the Plaintiff's Family, he Coachman ſaid his Maſter was gone to *Cobham* the

Day

Day, and his Miſtreſs dined at Dr. *Morley*'s; to which this Witneſs replied, he believed not, for that he was pretty ſure, he ſaw her go into the *Royal Bagnio* in St. *James*'s-*Street*, between Two and Three o'Clock.

This Witneſs, *Thomas Leech*, being croſs-examined, ſaid, when Mrs. *Biker* went into the *Bagnio*, ſhe wore a a Yellow Gown, and ſomething Black about her Shoulders; but could not be poſitive as to her other Dreſs; nor knows whether ſhe had a Hat, or not. — That Mr. *Biker*'s Family knew to whom he was gone to live, and gave him a Character ſome Months before; but, perhaps, they did not know particularly where his Maſter *Garnier*'s Houſe was. — That he was at the *Thatch'd Tavern* with the Plaintiff, who asked him, whether he did not ſee Dr. *Morley* go into the *Bagnio* with his Wife, which this Witneſs anſwering in the Negative; the Plaintiff drew his Sword, and ſaid *Damn him*, he would run him through if he did not tell the Truth; but that Perſons there (he thinks the Plaintiff's Attorney) interpoſed —— that *Francis Bayley* is the Plaintiff's Coachman, whom this Witneſs converſed with, as is mentioned before.

FRANCIS BAYLEY, *ſworn*.

This Witneſs lives with the Plaintiff, and is his Coachman. —— On the 18th of *April* he was abroad in the Morning with the Chariot, and his Miſtreſs in it; and at Noon whem he came Home, ſhe ordered him to put it up —— he had a Converſation that Afternoon with *Leech*, (the laſt Witneſs) to ſuch Effect as *Leech* mentioned: And had alſo a Converſation with one of the Defendant's Servants, about having half a Holiday that Day; by which he underſtood that the Defendant was gone abroad that Afternoon, without his Chariot.

HUMPHREY LINFIELD, *ſworn.*

On the 24*th* Day of *April*, the Plaintiff at his Houſe in *Foſter-Lane*, called in the Defendant; and ordered him to bring in two more Men, which the Witneſs did accordingly: The Plaintiff was in a very great Paſſion; there was an Apothecary's Son who deſired him to be eaſy; but he came to the Defendant at the Head of the Stairs, and puſhed him down from the Top to the Bottom, and called out, *Damn him a Raſcal, a Villain, break his Neck, knock his Brains out.*—The Doctor never turned, but took to his Heels, and went away.

——— FALKNER, *ſworn.*

This Witneſs is Coachman to the Defendant, and lived with him in *April* laſt—had ſuch Converſation with *Bayley*, the Plaintiff's Coachman, about having half a Holiday, as is mentioned before; and that the Defendant did not uſe his Chariot that Day, the 18*th* of *April.*

The Council for the Plaintiff reſted here.

The Council for the Defendant, made ſome Obſervations upon the Evidence for the Plaintiff, and ſome upon their own; but becauſe they ariſe for the moſt Part on the Plaintiff's Evidence, we ſhall give a brief Sketch of them in one View in this Place.

They ſaid that this was a malicious Action brought for Revenge, upon ſome Diſguſt which they could not account for. ——— That in Order to entitle a Plaintiff to maintain an Action of this Nature, to the Ruin of the Reputation and Fortune of a Defendant, dearer to him than his Life; the Story ought to be probable; or if it was attended with any Improbabilities, it ought to be ſupported by the Teſtimony of Witneſſes, whoſe Credit and Reputation, were above all Suſpicion; and that the

the Circumſtances, which were brought in Aid of the principal Fact, ought not to be ſuch as are wholly incredible. That it is wholly improbable, that a Perſon of the Defendant's Character, (ſuch as they ſhould ſhew it to be,) ſober, prudent, moral, almoſt arrived to the Top of his Profeſſion, a Father of Children; happy in an agreeable Wife of his own, with whom he lived in great Amity; a Man who was, as the Plaintiff's Council had opened, Twelve or Fourteen Years older than the Plaintiff; at a Time of Life when irregular Deſires are more eaſily governed; a Man, who by the Nature of his Profeſſion, was ruined if only ſuſpected; that he ſhould reſign himſelf a Slave to a deſtructive Paſſion for a ſickly Woman, labouring under a Continuation of Female Diſorders; and the Wife of a Perſon, whom he knew to be at the very Time, infected with the foul Diſeaſe; which, notwithſtanding any intended Reſtraint to the contrary, he might communicate to his Wife, and ſhe to the Defendant, if he could be ſo mad, as to be guilty of the Crime now imputed to him.

Then as to the Proofs, put the Teſtimony of *Anne Oliver* out of the Caſe, and there is nothing laid to the Defendant's Charge. They ſhall ſhew that ſhe was ſeen and heard thro' a Crevice to make a Bargain, and receive a Bribe for her Evidence; and declared that ſhe was fixed down by Affidavit which ſhe had made, and was threatned with *Newgate* and the Pillory, and ſaid ſhe could not go back. There is, indeed, a Story told of the Doctor's coming to the Plaintiff's Houſe, making long Viſits, and ſtaying one Evening from Eight, till half an Hour after Nine, the Night when Mrs. *Biker* countermanded the Milk-Porridge for half an Hour. Hard will be the Fate of the Gentlemen of the Faculty, eſpecially that Part of it, which more particularly regards the fair Sex; if it ſhall be imputed to a

Man as a Crime, or even draw on him the Suſpicion of it, that he is alone with his female Patient. What Proof is there given, that the Doctor took any indecent Liberties? But the Milk-Porridge was countermanded! a ſlight Circumſtance; and which ſhews the Weakneſs of a Cauſe that wants ſuch a Support; and yet it is obſervable, that the Witneſſes do not agree in it, as if they had not carefully compared Notes. The two Women ſay, that Mrs. *Biker* called and forbad bringing it in for half an Hour; the Man ſays, he carried it in, and his Miſtreſs ſent it back again for half an Hour. Then as to the thing itſelf, it is not probable to anſwer the End it is alledged for. What Occaſion to countermand it at all, if that half Hour was to be ſpent in a criminal Commerce; it were the better way to let it be brought in, and then they might expect to be undiſturbed by the Servants for that half Hour. Another Circumſtance is Mr. *Garnier*'s Coachman, ſeeing Mrs. *Biker* going into the *Bagnio*; this is alſo highly improbable. He ſpoke to her, asked her for her Family; ſhe knew him, took Notice of him, and if ſo, ſhe would certainly not have gone into the *Bagnio*. Beſides, the Doctor, who well knew Mr. *Garnier* an eminent Apothecary, would never have choſen to have an Aſſignation of that Kind, at a confeſſed —— Houſe, but juſt two Doors from him. This Story of the Coachman, ſeems to be nothing more than a Miſtake of his, of ſome other Woman of the like Stature, and wearing ſuch like Cloaths, for Mrs. *Biker*. It is obſervable upon *Anne Oliver*'s Evidence, that Mrs. *Biker*, or whoever that Woman was, had her Face covered with a Straw Hat; then the Coachman ſure (on his Coach-Box) could ſee but very little of it; and ſo little did he know of the Matter, that he cannot ſay whether ſhe had a Hat or not; and he ſpoke of it with Uncertainty to the other Coachman,

man, *viz. if he was not miſtaken.* Beſides, if that had been Mrs. *Biker*, impatient to come to her Aſſignation, ſhe had been there before; and would if ſhe had ſeen a Perſon who knew her, have gone in at the Back-Door, as *Anne Oliver* would have it believed ſhe went out of it. However (ſuppoſing that Woman to have been Mrs. *Biker*) the Defendant cannot be affected by it; if *Anne Oliver*'s Teſtimony be rejected, as it ought. That they had with much ado got out of her, the Confeſſion of Fifty Pounds, which her Husband was to have by Agreement, of which he had received Five and Twenty; and they ſhould prove, what ſhe denied, about her Declarations concerning a Bond for 100 *l.* and being put in a pretty Way, and having their Debts paid. They ſhould prove that the Doctor dined at Home on the 18*th* of *April*, and did not go out 'till Three o'Clock; that there was no Company in the red Room up one Pair of Stairs at the *Bagnio* that Day; nay, farther, that there was no Company in the Houſe that Day, only one Man and one Woman, up two Pair of Stairs; and that they left a Shilling for the Female-Waiter, who was not within when they went away.

SAMUEL BUCKNALL, *ſworn.*

This Witneſs has been Maſter of the *Royal Bagnio*, in St. *James*'s-*Street* about a Year and a half; *Anne Oliver* was a Waiter there ſome Months laſt Spring. ——This Witneſs ſaw the Plaintiff there ſeveral Times; the firſt was ſome time in *April*, in the fore Parlour and Paſſage; the ſecond time was on the 30th of *April*, the Plaintiff and one *Stanyford* an Attorney, enquired for *Anne Oliver*; when ſhe heard of them, ſhe was in a great hurry to go to them, ſo as not to ſtay to put on an Apron; ſhe went to them in the fore Parlour, and this Witneſs went into the back Parlour; there is a Hole in the

Partition between the two Parlours, which was there before the Witneſs came to the Houſe, and through which he could hear and ſee what paſs'd; and through which he obſerved the Converſation of the Plaintiff and his Attorney, with *Anne Oliver*; they expoſtulated with her, why ſhe did not come away, as ſhe had promiſed; ſhe ſaid, ſhe could not, till an Affair was at an end, which ſhe was obliged to attend in the *Marſhalſea-Court*; there was a Diſcourſe of paying Debts for her; ſome Money was given to her, but how much, the Witneſs cannot ſay; ſhe inſiſted upon 100*l.* to be ſecured to her Husband by Bond——when they were gone, this Witneſs had Diſcourſe with her, asked her, who they were, and what Buſineſs they came about? She ſaid, they came to enquire after a Doctor and a Lady, who came to the Houſe ſometimes; but that ſhe knew neither of them; that the Lady always mask'd, or turn'd away her Face. Afterwards *Anne Oliver* and this Witneſs went to the *Marſhalſea-Court*, and when they had done there, ſhe pretended Buſineſs in the City, but went to *Tottenham*;——where this Witneſs went afterwards and ſaw her;——ſhe ſaid, they had done ſomething to fix her—and that the Plaintiff had placed an old Woman as a Guard upon her—the firſt time this Witneſs and his Wife went to *Tottenham*, the Farmer told them, they could not ſee her.—— Being examined as to *Saturday* the 18th of *April*, he ſaid, that there was but one Company in his Houſe that Day, which were a Man and a Woman; that they came there between twelve and one o'Clock, or did not exceed two at moſt; that the Lady came firſt and asked for a Room, the lower part of the Houſe was wet; ſhe was ſhewn up two pair of Stairs to the red Room forward; there was a Fire lighted, the Gentleman came, they ſtaid about an Hour, and had ſome Sangree; their Reckoning

oning was 16*s.* 6*d.* in this the Witneſs ſays, he is confirm'd by his Book, (which he produced) he received the Reckoning, and 'tis enter'd, *Maſter Paid*; — they left Sixpence or a Shilling for the Waiter (which he does not remember) but he afterwards gave it to *Anne Oliver*—ſhe did not attend in the Houſe that Day.—This Witneſs now knows the Defendant, and believes he was not the Man,—that they went away together between three and four o'Clock—he does not remember that there was any other Company that Day or Night——he endeavours to keep his Accounts in his Books right, and has turned away ſeveral Servants for not making due Entries.——*Anne Oliver* came about half an Hour after they were gone——when he ſaw her at *Tottenham*, he did put it to her, whether ſhe would come away, if ſhe could get as much by ſpeaking the Truth;—but ſhe ſaid ſhe was fixed;—her Husband came in, and ſhewed a Watch, which this Witneſs had not ſeen for a great while before —the Husband had Wine of ſeveral ſorts —— this Witneſs ſaid, *you do not want for any thing* —— upon which the old Woman, who was placed over her by the Plaintiff, ſaid, *no, if ſhe could eat Gold ſhe ſhould have it.*——The Book which this Witneſs produced, being inſpected, the Entry for the 18th of *April*, appeared to have a Figure altered, but the Day of the Week (*Saturday*) was fairly entred, and the Entry was in Courſe next after the 17th, —on the top of the following Leaf there were two Lines obliterated, ſo as not to be legible.——This Witneſs ſaid, he had turned away two Servants, for not making due Entries;——that the Charge for the Houſe, for a Man and a Woman, is ten Shillings and Sixpence; but they might have bathed for the ſame——ſays, he ſaw the Defendant before he went to *Tottenham*——that the Defendant's Attorney had ſeen him, but not applied to him; that he had been

been with the Defendant's Attorney before he went to *Tottenham*—that the Diſtance between his two Journies to *Tottenham*, was about three Weeks —— believes he had not ſeen the Defendant in that intermediate time——that he did not ſee him at his Attorny's, to his beſt Remembrance——that *Anne Oliver* ſaid, *ſhe had been led away.*

Here *Anne Oliver* was called, to confront this Witneſs————ſhe ſaid, that he went once himſelf to her at *Tottenham*; and once ſent his Wife—that he told her, the Doctor would pay five hundred Pounds, three hundred for her, and two hundred for himſelf.——The Witneſs *Bucknall* repeated what he before ſwore, relating to his Converſation with her at *Tottenham*, and perſiſted in it; and denied that he mentioned five hundred Pounds, or any particular Sum of Money.

Anne Oliver being re-examined, as to the Defendant and Mrs. *Biker's* Meetings at the Bagnio, ſaid, that at the ſecond Time of their coming, this Witneſs was not within; that they left Six-pence for her, at which ſhe was diſſatisfy'd.

SARAH BUCKNALL (*the Wife of* SAMUEL BUCKNALL) *ſworn*,

Says, the firſt time the Plaintiff came to her Houſe, he asked her for *Nanny Oliver* the Waiter; he waited for her near an Hour in the Parlour; he and his Attorney ſaw her twice; ſhe (*Oliver*) ſaid, they offered her 50*l.* and that the Plaintiff ſaid, the Lady was his Wife; and that he would ruin the Defendant.——This Witneſs asked *Anne Oliver*, if ſhe knew who the Defendant was? who anſwered, ſhe did not till ſhe had ſpoken with the Plaintiff——that ſhe always declared ſhe never ſaw the Lady's Face——that *Anne Oliver* told this Witneſs, if ſhe had a Mind to be ungenerous, ſhe could have 100*l.* to which the Witneſs anſwer'd, *If you could*

could, I am ſure you would; *Anne Oliver* replied, *then to ſhew that I can, I will go away To-morrow Morning.*——This Witneſs was twice at *Tottenham*, the firſt time, *Anne Oliver* was not to be ſeen; the ſecond time ſhe had much Company, and her Husband was with her; and an old Woman, who was Guard over her.

BARBARA PYE, *ſworn*,

Said, that *Anne Oliver* told her, the Plaintiff had given her half a Guinea, and would give her fifty Pounds, if ſhe would prove that the Defendant and his Wife were together;—that ſhe told him her Place was worth 100*l.* a Year; and deſir'd time till *Monday* to conſider of it; but he came again ſooner, and told her, he would do what ſhe had inſiſted on, that is, give her a hundred Pounds, and give Bond to her Husband for the Money——that *Anne Oliver* told this Witneſs, ſhe never ſaw the Gentleman and Lady in Bed together; and that ſhe did not know the Defendant's Face.

ANNE SIDWELL, *ſworn*,

Said, that *Anne Oliver* told her, the Plaintiff would give her 50*l.* down, and a Bond for 100*l.* to prove, that the Defendant us'd to lie with the Plaintiff's Wife——that *Anne Oliver* told this Witneſs, that the Lady always came mask'd; and that ſhe ſhould not have known the Lady, if the Lady had not known her; that ſhe did not know the Gentleman, but that he was to be ſhewed to her by ſome Friend of the Plaintiff's, and then ſhe was to ſwear to him.——This Witneſs had formerly pawned Plate for *Anne Oliver*, and of late redeemed it——they dined together with the Plaintiff, at the half Moon Tavern; *Anne Oliver* requeſted her not to ſay a Word to him of any thing *Anne Oliver* had told this Witneſs, for it would

would be *Anne Oliver*'s Ruin——At the Tavern the Plaintiff gave this Witneſs a Guinea, to pay her Coach home: And *Anne Oliver*, in his Preſence, told her, ſhe ſhould be well rewarded, if ſhe held her Peace, and went into the Country——and the Plaintiff deſired this Witneſs might ſay nothing, unleſs put to her Oath; and, in that Caſe, ſhe muſt tell the Truth——that *Anne Oliver* has kept the *Rummer Tavern, Covent-Garden*——that the Plaintiff deſired this Witneſs not to take the Guinea as a Reward, and ſaid, *My Dear, be ſilent if you can, we are ſure of onr Cauſe; but if you won't appear, I will make you amends. Mrs.* Oliver *will ſatisfy you, that I'm a Man of Honour.*

Mr. PAIN, *Apothecary, ſworn.*

This Witneſs appeared very unwilling to be examined to the matter, propoſed to him; till he underſtood the Senſe of the Court to be, that he muſt anſwer——Then he ſaid, that by ſome Converſation the Plaintiff had with him about *Chriſtmas* laſt, he took it, that the Plaintiff had the foul Diſtemper;——and Dr. *Morley* knew of it to be ſure;——it did not confine him at home;—— he might be ſome Months under Cure;——and he might be pretty well in the Spring.

Miſs WATTS, *ſworn.*

This Witneſs is Siſter to Mrs. *Morley*—— the Defendant and his Wife lived in Harmony——this Witneſs and her Mother live at *Stratford*; but when in Town, they are at the Doctor's—— they have been at the Doctor's the moſt Part of laſt Winter——Mr. *Biker* made the firſt Viſit between the two Families——and uſed to make frequent and long Viſits——this Witneſs and Mrs. *Biker* were at the Rehearſal together on the 14th of *April*. This Witneſs ſaw Mrs. *Biker* every Day that Week, except *Wedneſday* and *Monday*; ſhe ſaw her on the 18th, be-

ing *Saturday*, at about eleven in the Morning—— the Defendant dined at home that Day at Two, or half an Hour after, as ſhe thinks, being their uſual Times of Dining, and went out about three, to the beſt of her Knowledge —— Mrs. *Biker* did not dine there that Day—— on the 14th the Plaintiff and his Wife were invited to dine at the Defendant's, and a Footman ſent with the Meſſage; the Plaintiff did not come; they ſent again for him in the Afternoon.

Being croſs-examined, ſhe ſaid, on the 18th Mrs. *Biker* came to Supper at the Doctor's about Eight o'Clock—the Defendant did not come till a good while after.

There were many reputable Witneſſes (ſome of them Apothecaries, and ſome his Patients, or the Huſbands of his Patients) called to the Doctor's Character; who gave him a very good one.

After an excellent Reply by Mr. *Sollicitor General*,

Mr. STANYFORD (*the Plaintiff's Attorney*) *ſworn*,

Said, that when he and Mr. *Biker* went firſt to *Anne Oliver*, they did pretend as mentioned in her Teſtimony, and ſaid that they were recommended for ſuch a purpoſe; and they related to her ſuch Circumſtances, as ſhe knew they could not have from any body, but the Defendant, or Mrs. *Biker*: The Plaintiff gave her half a Guinea to incline her to be free to talk to them —— and then this Witneſs, looking on the *Bagnio* to be inconvenient for that purpoſe, propoſed going elſewhere;—— and accordingly, they took a Coach, and came to the *Ship-Tavern* without *Temple-Bar*———— there the Plaintiff burſt into a Flood of Tears, and declared himſelf the unfortunate Husband of that Lady—— that the Plaintiff did not offer her any Money or Bond; but they thought it neceſſary to have her

away from the *Bagnio*, that the Defendant might not apply to her.—She insisted on having a Satisfaction for her Loss of Time, and referred to her Husband—she asked when the Cause would be heard; this Witness told them in *Trinity-Term*, if he could—but, perhaps, it might not be till *Michaelmas-Term*. The Husband of *Oliver* demanded 50 Guineas for her Loss of Time—this Witness and the Plaintiff thought the Demand high; and this Witness was tender in giving any Advice in a Transaction of that nature.—— But [illegible] and twenty Pounds, or Guineas have been paid to *Oliver*, the Husband, and [illegible] to have other [illegible] and twenty at the end of the Cause.—This Witness is pretty sure there was no Bond given.——*Anne Oliver* made no Affidavit; this Witness only took down her Evidence in Writing, for Instruction for Counsel. This Witness contradicted the Substance of the Conversation in every material part of it, which was sworn by *Samuel Bucknall*, to have pass'd in the Parlour of the *Bagnio* between Mr. *Biker*, this Witness, and *Anne Oliver* —and says, he was with Mr. *Biker* at the *Half-Moon Tavern*; *Anne Oliver* came there to offer her Evidence for the Plaintiff and to tell him that the Defendant had been tampering with her; but this Witness was of Opinion that they had no Business to encourage such a sort of People, and put her off.

The Right Hon. the Lord Chief Justice, with great Patience, between eight and nine o'Clock at Night, summ'd up the very long Evidence, and left it to the Jury, having condemn'd in strong Terms, the Practice of giving Money to, or driving a Bargain with a Witness, under the Pretence of Amends for Loss of Time, or otherwise, the Jury withdrew, and after three Quarters of an Hour brought in a Verdict for the Defendant.